

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DESIRAY HALL,

Plaintiff,

v.

ORDER
08-CV-526

MICHAEL J. ASTRUE,
Commissioner of Social Security,

Defendant.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). Both parties filed cross-motions for judgment on the pleadings. On October 9, 2009, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant's motion for judgment on the pleadings be denied and that plaintiff's cross-motion be granted in part and denied in part.

Defendant filed objections to the Report and Recommendation and plaintiff filed a response thereto. Oral argument on the objections was held on December 16, 2009.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions and hearing argument from the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant's motion for judgment on the pleadings is denied and plaintiff's cross-motion is granted in part and denied in part. The case is remanded to the Commissioner for further proceedings.

The Clerk of Court shall take all steps necessary to close the case.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: December 17, 2009